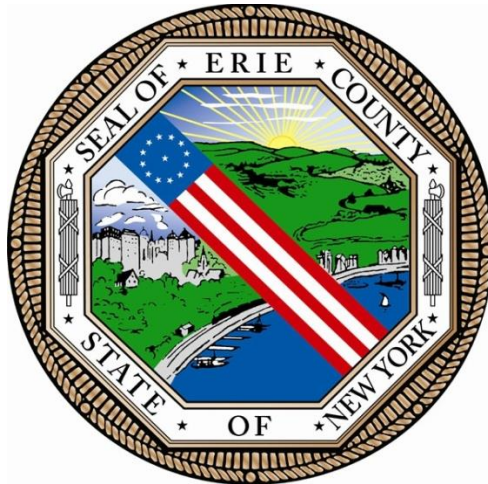


June 2018

**A Report on Revenue from Town and Village Courts
for Erie County Programs**



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Erie County Legislature
92 Franklin Street 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a report on certain New York State mandated fines for certain vehicle and traffic offenses, as well as certain bail fees, for the quarter ending March 31, 2018.

Our objectives were to:

- Determine the revenue received from these fines.
- Compare the amount collected with the amount anticipated to be collected in the budget.

To accomplish these objectives, we reviewed the quarterly statement from New York State regarding the collection of these fines and fees. We then compared the receipts with the anticipated receipts as outlined in the budget. We did not determine the seasonal fluctuations that may or may not exist in the amount of receipts and how such fluctuations may impact the budget.

As a result of our examination, we have made observations regarding the ability to provide certain programs within the parameters of the budget.

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DWI Fines

Vehicle and Traffic Law section 1197 allows counties, with the approval of the New York State Commissioner of Motor Vehicles, to create a special traffic options program for driving while intoxicated. If created, fines and forfeitures collected by any court, judge, magistrate or other officer for certain offences within that county will be deposited in that county's account to fund such a program. The account should be entitled "special traffic options program for driving while intoxicated" and is under the exclusive care, custody and control of the chief fiscal officer of the county.

Offenses for which fines are deposited into the special traffic options for driving while intoxicated include:

Vehicle and Traffic Law section 1192 discusses operating a motor vehicle while under the influence of alcohol or drugs;

Vehicle and Traffic Law section 511(2)(a)(ii), aggravated unlicensed operation of a motor vehicle in the second degree, which refers to an individual who operates a vehicle while his or her license is suspended or revoked and the suspension or revocation is based on a refusal to submit to a chemical test for alcohol or drugs or that the driver was under the age of twenty-one and under the influence of alcohol;

Vehicle and Traffic Law section 511(2)(a)(iii), aggravated unlicensed operation of a motor vehicle in the second degree, which refers to an individual who operates a vehicle while his or her license is mandatorily suspended due to a pending prosecution for driving while under the influence;

Vehicle and Traffic Law section 511(3)(a)(i), aggravated unlicensed operation of a motor vehicle in the third degree, which refers to an individual who commits aggravated operation of a motor vehicle in the second degree while under the influence of drugs or alcohol.

Erie County participates in the special traffic options program for driving while intoxicated. In 1982, Erie County established the STOP-DWI Office. The office employs 2.5 full time positions and falls under the Commissioner of Central Police Services.

According to information provided during the budget process, 65% of annual DWI fine collections are paid back to the police agency that made the arrest, thus providing resources to further enforce DWI laws, as well as incentivize continued DWI enforcement. The remaining 35% is used to create a comprehensive campaign to inform the public about the risks of DWI, supervise chronic offenders through probation, investigate DWI crashes, encourage strict prosecution of DWI cases, supplies DWI Victim Services and properly administers the program within state guidelines.

Below is a list of fines collected in municipalities which were deposited into Erie County's special traffic options for driving while intoxicated fund:

<u>Municipality</u>	<u>Incidences</u>	<u>Amount</u>
Alden	7	393.00
Alden (Village)	2	300.00
Amherst	83	16,472.50
Aurora	28	4,850.00
Blasdell (Village)	7	1,100.00
Boston	22	2,930.00
Brant	42	4,470.00
Cheektowaga	116	17,250.00
Clarence	55	5,050.00
Colden	6	800.00
Collins	16	1,780.00
Concord	18	1,328.00
Depew (Village)	29	4,350.00
Eden	23	3,450.00
Elma	33	3,750.00
Evans	38	3,555.00
Grand Island	28	2,800.00
Hamburg	114	16,270.00
Hamburg (Village)	19	4,845.00
Holland	6	1,100.00
Kenmore (Village)	21	2,735.00
Lancaster	44	5,448.50
Lancaster (Village)	7	400.00
Marilla	6	1,500.00
Newstead	5	500.00
North Collins	1	80.00
Orchard Park	67	7,055.00
Orchard Park (Village)	2	90.00
Sardinia	2	70.00
Springville (Village)	19	513.00
Tonawanda	111	18,650.00
Wales	5	320.00
West Seneca	81	13,570.00
Williamsville (Village)	6	1,250.00

Based on 1,069 incidents in the local court system, a total of \$149,025.00 was distributed to Erie County.

In 2017, the Erie County budget anticipated \$1,358,417 in total revenue for the DWI program, of which these fees are a component. The Erie County 2018 budget anticipates DWI program revenues of \$1,297,456. This indicates an approximately 4.4% decrease in revenue for 2018.

In the first quarter of 2017, Erie County received \$172,870.66 from towns via New York State for fines collected for DWI offenses. As such, the revenue from these fines decreased 13.8% in a quarter-to-quarter comparison. The 13.8% decrease for this quarter is significantly greater than the overall anticipated decrease of 4.4% decrease in total revenue. If all revenue lines were anticipated to decrease proportionately, this may portend a revenue shortfall for the year.

While a decrease in revenue may indicate fewer DWI related offenses, which is a positive, the significant decrease in revenue warrants careful monitoring to ensure that the program remains within budgetary constraints.

Bail Fees

In addition to DWI fines, Erie County also receives bail fees collected pursuant to General Municipal Law section 99-m. That section of law allows the county to collect a fee of two percent of bail money deposited, and an additional one percent to be deposited as an additional credit to an alternatives to incarceration service plan approved by the New York State Office of Probation and Correctional Alternatives.

Similarly, towns and villages may also collect a two percent fee with an additional one percent fee to be deposited for alternatives to incarceration. The additional one percent will ultimately be forwarded to the county in which the town or village is situated to be used to fund alternatives to incarceration programs.

Erie County anticipates that it will collect \$20,000 in bail fees to augment its alternatives to incarceration programs.

Below are the amounts collected by towns and villages and forwarded to Erie County to be used to fund alternatives to incarceration programs:

<u>Municipality</u>	<u>Amount</u>
Alden	2.00
Amherst	592.00
Aurora	8.50
Blasdell (Village)	7.35
Boston	200.00
Brant	47.10
Cheektowaga	532.90
Clarence	8.50
Collins	32.50

Evans	56.20
Hamburg	67.90
Hamburg (Village)	40.50
Holland	1.85
Grand Island	35.00
Lancaster	75.94
Orchard Park	23.00
Springville (Village)	11.00
Tonawanda	165.23
West Seneca	100.60
Williamsville (Village)	5.00

For the first quarter this year, Erie County collected \$2,013.07 from bail fees to be used to fund alternatives to incarceration programs.

In 2017, the Erie County budget anticipated \$20,000 in total revenue for bail fees, alternatives to incarceration, of which these fees are a component. The Erie County 2018 budget again anticipates bail fees, alternatives to incarceration revenues of \$20,000.

In the first quarter of 2017, Erie County received \$2,463.61 from towns and villages via New York State for bail fees. As such, the revenue from these fees decreased 18.3% in a quarter-to-quarter comparison. If all revenue lines were anticipated to decrease proportionately, this may portend a revenue shortfall for the year.

As the year progresses, Erie County may realize higher fees in the remaining quarters to eliminate this shortfall. Conversely, bail fees may also be lower in subsequent quarters. Regardless, the significant decrease in revenue warrants careful monitoring to ensure that the program remains within budgetary constraints.

Handicapped Parking

In addition to revenue to help fund STOP-DWI and alternatives to incarceration programs, Erie County also receives revenue from certain violations to help fund its Handicapped Parking Education Program.

Vehicle and Traffic Law section 1809-B mandates a surcharge of thirty dollars for violations of the following sections of law:

Vehicle and Traffic Law section 1203-A, parking permits for handicapped persons;

Vehicle and Traffic Law section 1203-B, parking permits, handicapped;

Vehicle and Traffic Law section 1203-C, off street parking spaces for the handicapped;

Any other statute, local law, ordinance or rule involving the parking, stopping or standing of motor vehicles registered pursuant to Vehicle and Traffic Law section 404-A or those possessing a special vehicle identification parking permit issued in accordance with Vehicle and Traffic Law section 1203-A.

Of the thirty dollars collected, fifteen of those dollars are forwarded to the county in which the town or village is situated to be used for its handicapped parking education program. Such a program is mandated by Vehicle and Traffic Law section 1203-G. The purpose of the program is to provide education, advocacy and increased awareness of handicapped parking laws. Every county that establishes such a program must establish a separate handicapped parking education fund in the custody of the chief fiscal officer of the county.

Below are the amounts collected by towns and villages and forwarded to Erie County to be used to fund handicapped parking education programs:

<u>Municipality</u>	<u>Amount</u>
Amherst	645.00
Aurora	60.00
Brant	100.00
Cheektowaga	555.00
Clarence	37.50
Concord	575.00
Depew (Village)	15.00
Evans	100.00
Hamburg	46.50
Kenmore (Village)	93.00
Lancaster	87.50
Orchard Park	12.50
Tonawanda	105.00
West Seneca	12.50
Williamsville (Village)	117.50

In total, Erie County received \$2,562 from towns and villages via New York State for these surcharges in the first quarter of 2018. In addition to the amounts received from the towns and villages via New York State listed above, Erie County also received surcharges from the City of Buffalo for the first quarter in the amount of \$4,005.00. Therefore, a total of \$6,567.00 was distributed to Erie County to be used to fund its Handicapped Parking Education Program. The Erie County 2018 budget anticipates handicapped parking surcharge revenues of \$27,500. As such, Erie County has collected 23.88% of its anticipated revenue through the first quarter of the year. While anticipated revenue for such fines is speculative and must be monitored, it appears at this point in time to be reasonably close to budgeted projections.

It should be noted that for the first quarter of 2017, Handicapped Parking Surcharges collected in the towns and villages was \$1,877.50. As such, Handicapped Parking Surcharges received from the towns and villages via New York State increased nearly 36%. This may indicate an increase in illegally parking in handicapped spaces of over one-third.

Conclusion

New York State allows Erie County to fund certain programs with fees related to certain offenses. Among these programs are STOP-DWI, alternatives to incarceration and handicapped education. As such these programs are in whole or in part funded by revenue other than tax dollars. Given the nature of the fees resulting from the commission of illegal acts, it can be difficult to accurately predict the amount of fees that will be received to fund these programs when preparing the annual budget. As such, it is advisable to carefully monitor revenues from these fees in order to determine if the program can be administered within budget.

To date, revenues from towns and villages via New York State which fund the STOP-DWI may be below budgeted forecasts and should be monitored carefully. As revenues continue to be deposited with Erie County, adjustments to the budget may be necessary.

To date, revenues from towns and villages via New York State which fund alternatives to incarceration may be below budgeted forecasts and should be monitored carefully. As revenues continue to be deposited with Erie County, adjustments to the budget may be necessary.

Revenues which fund handicapped parking education programs are reasonably on target, although monitoring of any revenue based on prediction requires continued attention.